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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,295	02/26/2004	John W. Clapper JR.	21365	3436
77407 7590 07/06/2009 Novak Druce & Quigg LLP 1300 I Street NW Suite 1000 West Tower Washington, DC 20005				
EXAMINER				
TORRES, ALICIA M				
ART UNIT		PAPER NUMBER		
3671				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,295

Applicant(s)

CLAPPER, JOHN W.

Examiner

ALICIA M. TORRES

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites the limitation "said latching means" in line 1. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the "protuberances" (lines 2 and 3) and "recesses" (line 3) are the same as those already set forth in independent claim 1, from which claim 5 depend.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins 5,678,332 in view of Pippins 6,502,336.

Hawkins discloses a grappling assembly for a machine having a boom, comprising:

- A dipper stick (10) pivotally connected to a boom (not shown)

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- An implement (11) connected to the dipper stick (10)
- Means (17) for moving the implement (11) relative to the dipper stick (10)
- An arm (B) connected to the underside of the dipper stick (10) and movable between a grappling position and an inoperative position
- Means (F) operatively connecting the underside of the dipper stick (10) and the arm member (B) for pivoting the arm (B) relative to the dipper stick (10)
- Wherein in the inoperative position, the arm member (B) is disposed along an underside of the dipper stick (10)
- Means (34 and unnumbered recesses shown in A and B) for detachably latching the arm (B) in the inoperative position including at least one transversely disposed recess (unnumbered through which pin 34 extends) and a protuberance (34) insertable into the recess to maintain the arm member (B) in the inoperative position
- The means (F) for moving the arm (B) is receivable within the arm (B) between a pair of elongated, transversely spaced plate member (26b) when the arm (B) is inoperative
- The means (F) for pivoting the arm comprising a fluid actuated cylinder
- The arm's (B) plate members (26b) having a jagged edge (C).

However, Hawkins fails to disclose means including one of the dipper stick and the arm member having at least one transversely disposed recess and the other of the dipper stick and the arm member having a yieldably biased, transversely displaceable protuberance insertable in the recess when the recess is in alignment therewith, trippable upon pivoting the arm member into the inoperative position and insertable in the recess to detachably secure the arm member in the

inoperative position, and upon pivoting the arm member out of the inoperative position to displace and detach the arm member from the inoperative position;

the protuberance has a curved outer surface and biased by a spring seated in the dipper stick; the biasing force exerted on the protuberance is sufficient to yieldably bias the protuberance in the recess yet insufficient to retain the protuberance therein upon pivoting from the inoperative to the grappling position.

Pippins discloses a latching means (Figure 8) including a first member (200) having at least one transversely disposed recess (201) and a second member (202) having a yieldably biased, transversely displaced protuberance (203) insertable in the recess when the recess is in alignment therewith, trippable upon moving the second member (202) into an inoperative position and insertable in the recess (201) to detachably secure the second member (202) in the inoperative position, and upon moving the second member (202) out of the inoperative position to displace and detach the second member (202) from the inoperative position;

the protuberance (203) has a curved outer surface and biased by a spring (204) seated in the second member (202); and

the biasing force (by spring 204) exerted on the protuberance (203) is sufficient to yieldably bias the protuberance (203) in the recess (201) yet insufficient to retain the protuberance (203) when the second member (202) is pulled away from the first member (200).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the latching means of Pippins for the recess and pin connection of the grappling assembly of Hawkins in order to provide attachment and detachment without the need for tools and without having to deal with small parts which can be easily lost.

Regarding claims 5 and 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the dipper stick with the protuberances and the arm member with the recesses since it has been held that rearranging parts of an invention involves only routine skill in the art. Additionally, as per the applicant's disclosure, these locations appear to be interchangeable with neither location providing any unexpected results, function or benefits.

Regarding claim 16, it can be seen that when Pippins latching means is applied to Hawkins grappling assembly the recess will be engageable with the protuberance in camming relation to cause the protuberance to displace and then be inserted into the recess when the arm member is angularly displaced to the inoperative position.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
7. Applicant has argued multiple times that the secondary references providing the protuberance and recess connection is of a totally different environment than that of the invention. However, the examiner would like to point out that the art of relevance is not dipper sticks and arm members but instead, the connection art. Additionally, the examiner would like to point out that in this current rejection Pippins happens to specifically fall in the environment of the invention.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

/Alicia M Torres/
Primary Examiner, Art Unit 3671
July 2, 2009